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this Memorandum Decision shall not be  
regarded as precedent or cited before  
any court except for the purpose of  
establishing the defense of res judicata,  
collateral estoppel, or the law of the  
case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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JAMES C. MURPHY,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 45A03-0611-CR-512

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APPEAL FROM THE LAKE SUPERIOR COURT  
The Honorable Diane Ross Boswell, Judge  
Cause No. 45G03-0602-FB-00023

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**October 3, 2007**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

James C. Murphy (“Murphy”) pleaded guilty in the Lake Superior Court to Class C felony possession of cocaine and was sentenced to five years in the Department of Correction. He appeals, arguing that his sentence is inappropriate. We affirm.

### **Facts and Procedural History**

On February 15, 2006, a confidential informant of the Gary Police Department Narcotics Unit completed a controlled buy of cocaine and methamphetamine from Murphy. The transaction occurred in a vacant lot located within one thousand feet of park. The State charged Murphy with Class B felony dealing in cocaine and Class B felony dealing in methamphetamine. Murphy entered into a plea agreement whereby he agreed to plead guilty to Class C felony possession of a controlled substance with sentencing left to the trial court’s discretion.

The trial court conducted a sentencing hearing on September 7, 2006. The court continued the hearing to September 28, 2006, so that Murphy could inquire whether federal authorities would recall a parole violation hold on him so that he might be eligible for community corrections. At the continued hearing, Murphy reported to the court that the federal hold would not be lifted. The court found as an aggravating circumstance Murphy’s four felony convictions and as mitigating circumstances his expressed remorse and admission of guilt. Concluding that the aggravating circumstance outweighed the mitigating circumstances, the trial court sentenced Murphy to an enhanced term of five years in the Department of Correction. Murphy now appeals.

## **Discussion and Decision**

Murphy contends that, because the trial court gave “serious consideration” to alternative sentencing, his enhanced sentence is “inherently inconsistent” with that consideration and thus is inappropriate. Br. of Appellant at 5. Appellate courts have the constitutional authority to revise a sentence if, after consideration of the trial court’s decision, the court concludes the sentence is inappropriate in light of the nature of the offense and character of the offender. Ind. Appellate Rule 7(B) (2007).

Murphy’s character is evidenced by a criminal history of four felony convictions, including a conviction for possession of cocaine. Moreover, at the time of the instant offense, Murphy was on supervised release from federal prison for two firearms convictions. In light of these circumstances, we cannot conclude that a sentence one year above the advisory sentence is inappropriate. See Ind. Code § 35-50-2-6(a) (2004 & Supp. 2007).

Affirmed.

NAJAM, J., and BRADFORD, J., concur.